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EXAMINER

LEYSON, JOSEPH S

ART UNIT	PAPER NUMBER
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1722

MAIL DATE	DELIVERY MODE
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06/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/642,487	Applicant(s) HUANG, LIEN-FU	
	Examiner Joseph Leyson	Art Unit 1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☒ Claim(s) 1-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
On p. 6, line 5, "52" (second occurrence) should be changed to --54--;
On p. 7, line 7, "32" should be changed to --23--.
Appropriate correction is required.

Claim Objections

2. Claims 1-8 are objected to because of the following informalities: for proper idiomatic language and/or antecedent basis clarity,
In claim 1, line 17, "the receiving tank" should be changed to --the second receiving tank--; line 38, "as" should be deleted; line 41, "being" should be changed to --with--; line 46, "the" (first occurrence) should be changed to --a--; line 48, "the" (second occurrence) should be changed to --a--; line 60, "transversal" should be changed to --lateral--; and line 62, "layers" should be changed to --layer--;
In claim 3, line 9, "hole" (first occurrence) should be changed to --holes--, and "one" should be changed to --the--;
In claim 4, line 3, "device" (second occurrence) should be changed to --unit--; and line 7, "will fall" should be changed to --fall--; and
In claim 5, line 2, --first-- should be inserted after "two"; and line 5, "stuffing" should be changed to --dough--.
Appropriate correction is required.

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3. Claims 2 and 7 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 2, which is dependent upon claim 1, recites that the inner wall of the inner tube is formed with a plurality of convex strips and a plurality of concave portions. However, such limitations are already disclosed in claim 1, lines 35-37.

Claim 7 only further recites materials to be used with the claimed apparatus, which does not further limit the apparatus structurally. A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987); see MPEP 2114. "Expressions relating the apparatus to contents thereof during an intended operation are of no significance in determining patentability of the apparatus claim." *Ex parte Thibault*, 164 USPQ 666, 667 (Bd. App. 1969). Furthermore, "[i]nclusion of material or article worked upon by a structure being claimed does not impart patentability to the claims." *In re Young*, 75 F.2d 996, 25 USPQ 69 (CCPA 1935) (as restated in *In re Otto*, 312 F.2d 937, 136 USPQ 458, 459 (CCPA 1963)). See MPEP 2115.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites that the dough is fed into the left and right inlets of the main tube from the two first paths, that the dough will collide horizontally to the wall of the middle tube, and that part of the dough horizontally passes through the transversal (lateral) inlet of the middle tube. However, it is not clear what dough comes from which apparatus elements, and the structural relationship of the left and right inlets of the main tube and to the two first paths is unclear relative to the dough. The examiner suggests changing "paths; the dough will" in line 53 of claim 1 to --paths, respectively; the dough from one of the two first paths will--; and changing "part of the dough" in line 59 of claim 1 to --the dough from the other of the two first paths--.

Allowable Subject Matter

6. Claims 1-8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, and/or to overcome the objections, set forth in this Office action.

7. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not teach or reasonably suggest the device, as recited by claims 1-8, including the at least two first guide units which are longitudinally arranged; each guide unit being a tapered cylinder; the interior of each first guide unit having the first screw propeller having the blades; the

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dough entering into the guide unit from the upper end of each first guide unit and then being transferred for being further processed; the at least two guide devices being horizontally arranged; each guide device being below and connected to a respective one of the two first guide units; each guide device including: the longitudinal first receiving tank; the inner wall of the first receiving tank being formed with the first path; another longitudinal receiving tank being arranged adjacent to the receiving tank; the wall of the second receiving tank being installed with the convex strips and the concave portions; the guide hole serving to communicate the first receiving tank and the second receiving tank; the upper opening of the second receiving tank being communicated to the first guide unit; the dough being guided by the screw propeller to the second receiving tank and then through the guide hole to the first receiving tank; the turbine pump being horizontally arranged to the first receiving tank so as to form the propeller for changing direction of the dough in the first receiving tank so that the dough in the guide hole is fed into the first path; the food output unit for outputting the cylindrical food including: the main tube having the left inlet, the right inlet and the longitudinal through hole; the middle tube having the longitudinal through hole and the lateral inlet; the middle tube being engaged to the longitudinal through hole of the main tube; the inner tube having the longitudinal through hole and being engaged to the longitudinal through hole of the middle tube; the inner circular path being formed between the inner tube and the middle tube; the cylindrical second guide unit being connected to the upper opening of the inner tube; the inner wall of the inner tube being installed with the convex strips and

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the concave portions; the inner material guiding nozzle having the longitudinal inner material guiding holes; the inner material guiding nozzle being firmly secured to the lower opening of the middle tube; the outer material guiding nozzle with the longitudinal outer material guiding hole firmly secured to the lower opening of the longitudinal path of the main tube; the outer circular path being formed between the inner material guiding nozzle and the outer material guiding nozzle; wherein the second screw propeller has blades; the second screw propeller is pivotally connected to the second guide unit and the longitudinal path of the inner tube; the stuffing is filled into the second guide unit; then the stuffing is pushed to the output end of the inner tube by the second screw propeller to be as the inner layer material of the cylindrical food; wherein the dough is fed into the left and right inlets of the main tube from the two first paths, respectively; the dough from one of the two first paths will collide horizontally to the wall of the middle tube; thus the moving direction of the dough is changed to the longitudinal direction so that the dough moves longitudinally in the longitudinal path of the main tube; then the dough passes through the outer circular path to be outputted to be as the outer layer material; wherein the dough from the other of the first two paths horizontally passes through the lateral inlet of the middle tube and collides the outer wall of the inner tube; then the dough is guided by the inner circular path and outputted as the middle layer material; thus the three layers cylindrical food is formed.

Conclusion

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8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Koppa (US 4,715,803), Koppa (US 4,748,031), Kobayashi (US 4,854,842), Kobayashi (US 4,966,542) Kobayashi (US 5,004,619), Tracy et al. (US 5,686,128) and Kobayashi (US 5,820,890) are cited as of interest to show the state of the art.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Leyson whose telephone number is (571) 272-5061. The examiner can normally be reached on M-F 9AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gupta Yogendra can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service


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Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


JL


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PRIMARY EXAMINER
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6/24/07